Entered on Docket
December 21, 2010
GLORIA L. FRANKLIN, CLERK
U.S BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

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FILED

DEC 16 2010

CLERK
United States Bankruptcy Court
San Jose, California

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Kevin R. Martin (176853)
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Attorneys for Creditor
J.R. FINANCIAL LENDING, INC.

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re: RUTH VAN DEROSTYNE, Debtor.	Case No.: 07-54384 RLE SLJ 10-5411 **STIPULATION AS TO NON-DISCHARGEABILITY OF DEBTS OWED TO CREDITOR J.R. FINANCIAL LENDING, INC.**

This Stipulation As To Non-Dischargeability of Debts is entered into by and between creditor J.R. Financial Lending, Inc. ("JRF") and debtor Ruth Van Derostyne. Having met and conferred regarding the outstanding obligations owed from debtor to creditor, and having agreed that such obligations constitute debts non-dischargeable under Chapter 11, Section 524 of the Bankruptcy Code, the parties stipulate to the following:

1. The bankruptcy case of debtor Ruth Van Derostyne was filed on December 27, 2007.

2. Creditor J.R. Financial Lending, Inc. was not listed as a creditor of debtor at that time or anytime subsequent thereto.

3. The plan for reorganization was confirmed on February 28, 2008.

4. The case was completed on January 28, 2010.

5. The case was discharged on April 14, 2010.

6. J.R. Financial Lending, Inc. filed a civil lawsuit Case No. RG09456196 on June 5, 2009, in Superior Court of California, County of Alameda ("the civil lawsuit"), naming Ruth A. Van Derostyne as a defendant and alleging claims for money damages, conspiracy to commit fraud, breach of fiduciary duty and seeking declaratory relief. A copy of the filed-endorsed civil suit is attached hereto and incorporated herein by reference.

7. The claims alleged in the civil lawsuit center on Ruth Van Derostyne's fraudulent conduct while acting in a fiduciary capacity as an officer of J.R. Financial Lending, Inc. on or about 2004 and continuing through on or about 2008. As alleged in the civil suit, during this time Ruth Van Derostyne systematically looted J.R. Financial Lending, Inc. of $1,027,095.00, transferring these sums out of J.R. Financial Lending, Inc.'s account into her own or those of her daughters. Ruth testified at her deposition that she used the funds for various personal expenses including car payments, her daughter's college expenses, credit card payment, and to pay off her $150,000 restitution penalty following a January 2005 embezzlement conviction.

8. Ruth Van Derostyne was properly served with the Complaint, but did not respond, and does not dispute the allegations made therein. A court default was taken against her on July 17, 2009. A true and correct copy of the court default is attached hereto and incorporated herein by reference.

9. The parties agree that the debts referenced above fall under Section 523(a)(4) and are excepted from discharge.

10. The parties further agree that J.R. Financial Lending, Inc. may secure a

judgment against Ruth Van Derostyne in the amount of $1,027,095.00 and will do so by:

a. Filing an adversary proceeding in this Court regarding non-dischargeability of the debts described above;

b. Filing a stipulated judgment stating that the debts are non-dischargeable pursuant to Chapter 11, Section 524 of the Bankruptcy Code and that Ruth Van Derostyne owes J.R. Financial, Inc. $1,027,095.00.

Date: NOV. 22, 2010

PATTON MARTIN & SULLIVAN LLP

By: Kevin R. Martin
Kevin R. Martin

Attorneys for J.R. Financial Lending, Inc.

Date: 11-22-10

Ruth Van Derostyne
Ruth Van Derostyne

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Attorneys for Plaintiff
J.R. Financial Lending, Inc.

ENDORSED
FILED
ALAMEDA COUNTY

JUN 0 5 2009

CLERK OF THE SUPERIOR COURT
By LYNN WILEY
Dep.

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ALAMEDA

UNLIMITED JURISDICTION

J.R. FINANCIAL LENDING, INC., a California Corporation, Plaintiff, vs. RUTH A. VAN DEROSTYNE, PATRICIA A. WOOD, VANWOOD FINANCIAL SERVICES, JP WOOD CORPORATION, ROGER D. PRESTON, WOOD-PRESTON/ CHICAGO, LLC, JIMMY JACK GORDON, aka JIMMY GORDON TRUJILLO, DANIEL LARA, CANDACE K. SMITH, SCOTT SMITH, and DOES 1-20, inclusive, Defendants.	No. RG09456196 **COMPLAINT FOR MONEY DAMAGES FOR CONSPIRACY TO COMMIT FRAUD; BREACH OF FIDUCIARY DUTY; AND FOR DECLARATORY RELIEF** **JURY TRIAL DEMANDED**

Plaintiff J.R. Financial Lending, Inc. alleges the following, as and for its Complaint herein:

GENERAL ALLEGATIONS

A. The Parties

1. At all times herein mentioned, plaintiff J.R. Financial Lending, Inc. ("plaintiff" and/or "JR") was and is a corporation duly organized and existing under the laws of the State of California.

2. At all times herein mentioned, JR's business consisted of the arranging for and making of loans, including mortgage loans for residential mortgages, within the State of California.

3. At all times herein mentioned, defendant Ruth A. Van Derostyne ("Van Derostyne") was and is an individual, residing within the City of Milpitas, County of Santa Clara, State of California. Defendant Van Derostyne was also a shareholder, managing officer, and director of plaintiff JR, and as such, owed plaintiff fiduciary duties of trust, honesty, and loyalty, among other duties.

4. At all times herein mentioned, defendant Patricia A. Wood ("Wood") was and is an individual, residing within the City of Oakdale, County of Stanislaus, State of California. Defendant Wood was and is a managing member of defendant Wood-Preston/Chicago, LLC, a shareholder in defendant JP Wood Corporation, and an owner of defendant VanWood Financial Services.

5. At all times herein mentioned, defendant Roger D. Preston ("Preston") was and is an individual, residing within the City of Modesto, County of Stanislaus, State of California. Defendant Preston was and is a managing member of defendant Wood-Preston-Chicago, LLC.

6. At all times herein mentioned, defendant Jimmy Jack Gordon, aka Jimmy Gordon Trujillo ("Gordon") was and is an individual, residing within the County of Santa Clara, State of California. Plaintiff alleges on information and belief that defendant Gordon is the former husband of defendant Van Derostyne.

7. At all times herein mentioned, defendant Daniel Lara ("Lara") was and is an individual, residing within the County of Santa Clara, State of California.

8. At all times herein mentioned, defendant Candace K. Smith was and is an individual, residing within the County of Santa Clara, State of California. Plaintiff alleges on information and belief that defendant Candace K. Smith was and is the wife of defendant Scott Smith.

9. At all times herein mentioned, defendant Scott Smith was and is an individual, residing within the County of Santa Clara, State of California. Plaintiff alleges on information and belief that defendant Scott Smith was and is the husband of defendant Candace K. Smith. Defendants Candace and Scott Smith are hereinafter sometimes collectively referred to as "the Smiths."

10. At all times herein mentioned, defendant VanWood Financial Services ("VanWood") was a business entity of unknown form, conducting business out of offices in the City of Pleasanton, County of Alameda, State of California. Plaintiff alleges on information and belief that at all times relevant, defendant VanWood was owned and controlled by defendants Van Derostyne and Wood.

11. At all times herein mentioned, defendant JP Wood Corporation ("JPW") was and is a purported corporation organized and existing under the laws of the State of California, conducting business in the City of Oakdale, County of Stanislaus, State of California.

12. At all times herein mentioned, defendant Wood-Preston/Chicago, LLC ("WPC") was and is a purported limited liability company organized and existing under the laws of the State of California, conducting business in the City of Oakdale, County of Stanislaus, State of California.

13. The true names and capacities, whether individual, corporate, or otherwise, of the defendants presently named herein as Does 1 through 20, inclusive, are presently unknown to plaintiff, who therefore sues said defendants by such fictitious names. Plaintiff alleges on information and belief that each of said defendants designated as a Doe defendant herein participated in, assisted in, conspired in, or is in some manner responsible for the events and happenings herein referred to, and/or claims some right,

title, or interest in the matters which are the subject of this action, and plaintiff will pray leave to amend this Complaint to allege the true names and capacities of said fictitiously named defendants when the same are ascertained. Plaintiff further alleges on information and belief that at all times mentioned herein, each of the defendants alleged herein was the agent, representative, employee, alter ego, and/or co-conspirator of each of the remaining defendants and, in doing the things hereinafter alleged, was acting within the course and scope of such agency, alter ego status and/or conspiracy, and are therefore responsible to plaintiff for their actions in such capacity.

B. Relevant Background

14. On or about March of 2004, plaintiff JR was formed for the purpose of arranging and funding loans to California borrowers, with the intention that the majority of its loans would be secured by real property, typically residential real property. JR obtained its funding capital from various private persons.

15. On or about 2004, and continuing, defendants, and each of them, formed a conspiracy to defraud and embezzle, steal, and convert funds and assets from plaintiff JR, for the improper purposes of financially benefitting themselves, their fellow co-conspirators, and various friends and family members.

16. In pursuit of the illegal objectives of their conspiracy, defendants, and each of them, agreed that defendants Van Derostyne, Wood, and Candace Smith would, acting as agents and/or employees of JR and/or VanWood, would, among other things: 1) arrange, set up, and process loans of monies from plaintiff JR to the defendants, with no intention of repayment, and no intention of providing adequate security for such repayment; and 2) directly embezzle and misappropriate funds belonging to JR, including funds from JR's bank accounts, and pay same to defendants, and various friends and family members.

17. As a material part of the above-alleged conspiracy, defendants Van Derostyne, Wood and VanWood, acting as agents and facilitators for plaintiff JR, procured primary loan funding from institutional investors for loan packages, and

provided purported background information, credit analysis, and borrower qualification information, as well as other services, that were material to the funding of loans by JR to third-party borrowers. JR reasonably relied on the accuracy and competence of this information, and upon the good faith, honesty and integrity of defendants Wood and VanWood acting in such capacity.

18. Each of the defendants participated in, ratified, and benefitted from the above conspiracy in one or both manners set forth above. Pursuant to this conspiracy, defendants Van Derostyne, Wood, Preston, WPC, Gordon, Lara, and the Smiths each improperly received and/or used loans of monies from plaintiff JR which they have not repaid, and had and have no intention of repaying, and have used those monies for their own personal benefit and purposes.

19. Pursuant to the above-alleged conspiracy, defendant Van Derostyne directly embezzled and misappropriated funds belonging to plaintiff JR. Plaintiff alleges on information and belief that one or more of the other defendants either: a) directly embezzled and misappropriated funds belonging to plaintiff JR; and/or b) knowingly and fraudulently received and utilized funds that had been embezzled and misappropriated from plaintiff JR; and/or c) knowingly and fraudulently aided, abetted, and facilitated such actions.

20. Further, pursuant to the above-alleged conspiracy, defendants took the actions and engaged in the conduct more specifically alleged in the causes of action below.

21. Plaintiff makes the following specific allegations of its claims and causes of action in the alternative, and without prejudice to any other claim, cause of action, theory, or allegation asserted in this Complaint or otherwise available, pursuant to the doctrines permitting election of remedies and alternative pleading.

WHEREFORE, plaintiff prays judgment against defendants, all as more particularly set forth below.

FIRST CAUSE OF ACTION

FRAUD AND DECEIT – INTENTIONAL MISREPRESENTATION/CONCEALMENT

(Against All Defendants)

22. Plaintiff incorporates by reference, as though set forth in full, Paragraphs 1 through 21 of the allegations set forth above.

23. Pursuant to the conspiracy alleged above, defendants engaged in the following fraudulent conduct.

24. On or about 2004, and continuing through on or about 2008, defendant Van Derostyne stated, represented, and promised to plaintiff JR that she: would manage and oversee all lending activities of JR; would assure that all loans of monies made by JR would be to properly qualified and legitimate borrowers; would assure that all loans of monies made by JR would be properly documented and adequately secured by appropriate real estate with adequate equity to support such loans; and would assure that proper efforts would be made to monitor and collect the loan payments, and, if necessary, to enforce the security in the event of nonpayment. These actions were completely consistent with and encompassed by defendant Van Derostyne's fiduciary duty to plaintiff JR.

25. From on or about 2004, and continuing through on or about 2008, defendants Van Derostyne, Wood, VanWood, JPW, and Candace Smith, and each of them, purporting to act on JR's behalf and to facilitate its lending activities, purported to present, process, document, and otherwise utilize loan information and documentation to process loans from plaintiff JR to third parties, representing, by words and conduct, that they were properly following acknowledged and prudent lending procedures to ensure that all loans of monies made by JR were and would be to properly qualified and legitimate borrowers; that such loans were and would be properly documented and adequately secured by appropriate real estate with adequate equity to support repayment; and that proper efforts were and would be made to monitor and collect the loan payments.

26. On or about August 9, 2004, defendant Van Derostyne borrowed approximately $20,000 from plaintiff JR, which loan amount has not been fully repaid. This loan was made and based upon defendant Van Derostyne's representations that the loan would be fully repaid, and upon JR's reasonable belief that adequate documentation would be submitted by said defendant to justify and secure the loan, and reasonable belief that said defendant intended to repay and/or adequately secure the loan. Plaintiff alleges on information and belief that at all times relevant, and when said defendant sought this loan, that defendant had no intention of fully repaying same.

27. On or about April 21, 2005, defendants Wood, Preston, and WPC borrowed approximately $16,000 from plaintiff JR, which loan amount has not been fully repaid. This loan was made and based upon said defendants' representations that the loan would be fully repaid, and upon JR's reasonable belief that adequate documentation would be submitted by said defendant to justify and secure the loan, and reasonable belief that said defendant intended to repay and/or adequately secure the loan. Plaintiff alleges on information and belief that at all times relevant, and when said defendants sought this loan, that defendants had no intention of fully repaying same.

28. On or about August 4, 2005, defendants Wood, Preston, and WPC borrowed approximately $200,000 from plaintiff JR, which loan amount has not been fully repaid. This loan was made and based upon said defendants' representations that the loan would be fully repaid, and upon JR's reasonable belief that adequate documentation would be submitted by said defendant to justify and secure the loan, and reasonable belief that said defendant intended to repay and/or adequately secure the loan. Plaintiff alleges on information and belief that at all times relevant, and when said defendants sought this loan, that defendants had no intention of fully repaying same.

29. On or about November 18, 2004, defendant Scott Smith borrowed approximately $40,000 from plaintiff JR, which loan amount has not been fully repaid. This loan was made and based upon said defendant's representations that the loan would be fully repaid, and upon JR's reasonable belief that adequate documentation

would be submitted by said defendant to justify and secure the loan, and reasonable belief that said defendant intended to repay and/or adequately secure the loan. At all times relevant, and when said defendant sought this loan, that defendant had no intention of fully repaying same.

30. On or about July 11, 2006, defendant Scott Smith borrowed approximately $137,000 from plaintiff JR, which loan amount has not been fully repaid. This loan was made and based upon said defendant's representations that the loan would be fully repaid, and upon JR's reasonable belief that adequate documentation would be submitted by said defendant to justify and secure the loan, and reasonable belief that said defendant intended to repay and/or adequately secure the loan. At all times relevant, and when said defendant sought this loan, that defendant had no intention of fully repaying same.

31. On or about February 4, 2007, defendant Candace Smith, under the name "Candace Dees," borrowed approximately $21,000 from plaintiff JR, which loan amount has not been fully repaid. This loan was made and based upon said defendant's representations that the loan would be fully repaid, and upon JR's reasonable belief that adequate documentation would be submitted by said defendant to justify and secure the loan, and reasonable belief that said defendant intended to repay and/or adequately secure the loan. At all times relevant, and when said defendant sought this loan, that defendant had no intention of fully repaying same.

32. On or about April 1, 2004, defendant Lara borrowed approximately $165,000 from plaintiff JR, which loan amount has not been fully repaid. This loan was made and based upon said defendant's representations that the loan would be fully repaid, and upon JR's reasonable belief that adequate documentation would be submitted by said defendant to justify and secure the loan, and reasonable belief that said defendant intended to repay and/or adequately secure the loan. At all times relevant, and when said defendant sought this loan, that defendant had no intention of fully repaying same.

33. On or about January 11, 2007, defendant Lara borrowed approximately $150,000 from plaintiff JR, which loan amount has not been fully repaid. This loan was made and based upon said defendant's representations that the loan would be fully repaid, and upon JR's reasonable belief that adequate documentation would be submitted by said defendant to justify and secure the loan, and reasonable belief that said defendant intended to repay and/or adequately secure the loan. At all times relevant, and when said defendant sought this loan, that defendant had no intention of fully repaying same.

34. On or about July 11, 2007, defendant Lara borrowed approximately $100,000 from plaintiff JR, which loan amount has not been fully repaid. This loan was made and based upon said defendant's representations that the loan would be fully repaid, , and upon JR's reasonable belief that adequate documentation would be submitted by said defendant to justify and secure the loan, and reasonable belief that said defendant intended to repay and/or adequately secure the loan. At all times relevant, and when said defendant sought this loan, that defendant had no intention of fully repaying same.

35. In furtherance of the above-alleged conspiracy, to facilitate and induce the making of the above-referenced loans by plaintiff JR, and obtain these monies for themselves, defendants submitted, authorized and/or approved false and unsupported references, documentation and appraisals; intentionally failed to require appropriate references, documentation and appraisals; intentionally overlooked and failed to verify the suitability and adequacy of purported real property security; intentionally failed to prepare, notarize, sign, and/or record basic loan documentation, including loan agreements, promissory notes and/or deeds of trust; intentionally overlooked and failed to maintain appropriate records and information, including payment information; knowingly issued checks without documentation; and took other acts that essentially treated the funds of JR as defendants' own personal slush fund, and ignored legitimate lending and borrowing practices in doing so. Further, defendants cooperated and

assisted one another in taking these actions, in pursuit of the above-alleged conspiracy to defraud. These actions were all taken and conducted with the ultimate fraudulent intent of looting funds from JR for defendants' own personal uses and benefit.

36. At all times relevant, defendants, and each of them, concealed and suppressed their true intentions, their conspiracy, their actions in pursuit of the conspiracy, and their fraudulent plans to improperly obtain funds from plaintiff JR under false pretenses, as more particularly alleged above. In its reasonable exercise of diligence, JR could not have known or timely discovered defendants' true intentions, not only because of this fraudulent concealment, but also because of defendant Van Derostyne's role and participation in this conspiracy, in complete derogation of her fiduciary responsibilities.

37. In reasonable and justifiable ignorance of defendants' fraudulent actions, and in reasonable reliance upon their representations and conduct, plaintiff JR provided funding to defendants for the loans described above, and further took no actions to protect its own funds from embezzlement and malfeasance, relying upon defendant Van Derostyne's assurances that she would observe and perform her management and fiduciary duties. Had plaintiff known the true facts, or of the conspiracy and defendants' true intentions, plaintiff would not have provided funding for such loans, and would have taken action to prevent the embezzlement and theft of its funds.

38. During the period of her management, approximately 2004 through 2008, defendant Van Derostyne embezzled, misappropriated, and stole more than $500,000 in funds belonging to plaintiff JR, and defendants actively concealed such malfeasance so that it would not come to JR's attention. Plaintiff alleges on information and belief that one or more of the remaining defendants assisted and abetted defendant Van Derostyne in actions taken to accomplish this embezzlement, and/or personally participated in other acts of embezzlement.

39. As a proximate result of defendants' fraudulent conduct and conspiracy with regard to same, plaintiff JR has suffered losses, and defendants have been unjustly

enriched, in sums in excess of $1 million and according to proof.

40. The above-alleged conduct of defendants, and each of them, was intentional, wanton, fraudulent, malicious, oppressive, and/or done with reckless and in conscious disregard for the rights and welfare of plaintiff JR, and designed and intended to unjustly benefit and enrich said defendants and to gain improper advantages for them at the expense of plaintiff, and such conduct was knowingly directed, ratified, condoned, and accepted by defendants, such that an award of punitive and exemplary damages is justified against said defendants, and each of them, in an amount according to proof, and sufficient to make an example of their reprehensible conduct.

WHEREFORE, plaintiff prays judgment against defendants, all as more particularly set forth below.

SECOND CAUSE OF ACTION

BREACH OF FIDUCIARY DUTY

(Against Defendants Van Derostyne and Does 1-5)

41. Plaintiff incorporates by reference, as though set forth in full, Paragraphs 1 through 40 of the allegations set forth above.

42. As an officer and director of plaintiff JR, and as a 50% shareholder of JR, defendant Van Derostyne at all times owed fiduciary duties of honesty, loyalty, fair dealing, and competence to plaintiff JR, including the duty to protect plaintiff from fraudulent and/or risky transactions and loans. These duties further included the duty of fullest disclosure on the part of defendants, of any facts material to plaintiff's involvement in any loans or transactions, including the loans that are the subject of this action, as well as the duty to account to plaintiff for all dealings and transactions affecting plaintiff JR's finances, and to hold, in constructive trust for plaintiff, all assets, property and funds gained by defendants as a product of their participation in the events and transactions alleged herein.

43. On or about 2004, and continuing, defendants, and each of them,

breached their fiduciary duties owed to plaintiff JR as more particularly alleged above, by participating in the fraudulent misappropriation of funds and property of plaintiff JR, and by concealing the conspiracy and actions of defendants and the fraudulent misappropriation from plaintiff JR.

44. As a proximate result of defendants' breaches of fiduciary duty, plaintiff JR has suffered losses, and defendants have been unjustly enriched, in sums in excess of $1 million and according to proof.

45. The above-alleged conduct of defendants, and each of them, was intentional, wanton, fraudulent, malicious, oppressive, and/or done with reckless and in conscious disregard for the rights and welfare of plaintiff JR, and designed and intended to unjustly benefit and enrich said defendants and to gain improper advantages for them at the expense of plaintiff, and such conduct was knowingly directed, ratified, condoned, and accepted by defendants, such that an award of punitive and exemplary damages is justified against said defendants, and each of them, in an amount according to proof, and sufficient to make an example of their reprehensible conduct.

WHEREFORE, plaintiff prays judgment against defendants, all as more particularly set forth below.

THIRD CAUSE OF ACTION

FOR DECLARATORY RELIEF (C.C.P. §§ 1062, *et seq.*)

(Against All Defendants)

46. Plaintiff incorporates by reference, as though set forth in full, Paragraphs 1 through 45 of the allegations set forth above.

47. An actual controversy has arisen and now exists as between plaintiff JR and defendants, and each of them, in that plaintiff contends and alleges, and believes that defendants, and each of them, deny, that defendants are jointly and severally liable for the matters, acts, and omissions alleged above, and must account to, and restore all consideration and benefits received by them as a result of the above-alleged conduct.

Specifically, plaintiff contends, and alleges on information and belief that defendants deny, the following:

a) That defendants hold funds and property in constructive trust for the benefit of plaintiff JR and/or for the benefit of investors who made funds available to defendants by way of the loans alleged above, according to proof;

b) That defendants must account to plaintiff JR for all funds, property, income and gains realized by defendants as a result of the transactions and loans alleged above;

c) For such other declarations as may be requested by plaintiff JR.

48. Because of the existence of the above-described justiciable controversy, and to achieve finality, avoid multiplicity of suits, and promote the interests of justice and judicial economy, it is requested and proper that this Court enter declaratory judgment on the matters alleged above, and any related controversies as between the parties, in favor of plaintiff JR, and against defendants, consistent with the matters set forth above in Paragraphs 47(a), (b), and (c).

WHEREFORE, plaintiff prays judgment against defendants, as follows:

PRAYER FOR RELIEF

Pursuant to the doctrine of election of remedies, plaintiff prays for entry of Judgment herein, providing any and all appropriate relief available under the law, including any and all of the following:

1. On all causes of action seeking compensatory damages, for judgment awarding plaintiff compensatory damages against defendants in the sums prayed for and/or according to proof at the time of trial against defendants, including any sums whereby defendants have been unjustly enriched, as well as all other consequential and related damages.

2. On all causes of action seeking punitive damages, for judgment awarding plaintiff punitive and exemplary damages against defendants according to proof at the

time of trial herein.

3. On all causes of action seeking monetary damages, for judgment awarding plaintiff interest thereon at the legal rate from such date as provided by law.

4. On all causes of action seeking declaratory relief, for declaratory judgment, as prayed for herein.

5. For attorney's fees as provided by law.

6. For costs of suit herein incurred.

7. For such other and further relief as the Court may deem just and proper.

Dated: June 3, 2009

Respectfully Submitted,

McNichols Beers LLP

By: ______________________
John H. Patton, Of Counsel
Attorneys for Plaintiff JR Financial Lending, Inc.

JURY TRIAL DEMANDED

Plaintiff JR Financial Lending, Inc. hereby requests a jury trial in the above-entitled action.

Dated: June 3, 2009

McNichols Beers LLP

By: ______________________
John H. Patton, Of Counsel
Attorneys for Plaintiff JR Financial Lending, Inc.

CIV-100

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
John H. Patton [SBN 69261]
McNichols Beers
6600 Koll Center Parkway, Suite 250

Pleasanton, California 94566-8058
TELEPHONE NO.: (925) 600-1800 FAX NO. (Optional): (925) 600-1802
E-MAIL ADDRESS (Optional): jpatton@mcnicholsbeers.com
ATTORNEY FOR (Name): JR Financial Lending, Inc.

FOR COURT USE ONLY

ENDORSED
FILED
ALAMEDA COUNTY
JUL 17 2009
CLERK OF THE SUPERIOR COURT
M. Salcido, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda
STREET ADDRESS: 1225 Fallon Street
MAILING ADDRESS:
CITY AND ZIP CODE: Oakland CA 94612
BRANCH NAME:

PLAINTIFF/PETITIONER: JR Financial Lending, Inc.

DEFENDANT/RESPONDENT: Ruth A. Van Derostyne

REQUEST FOR (Application) [X] Entry of Default [ ] Clerk's Judgment [ ] Court Judgment

CASE NUMBER: RG09 456196

1. TO THE CLERK: On the complaint or cross-complaint filed
   a. on (date): June 5, 2009
   b. by (name): JR Financial Lending, Inc.
   c. [X] Enter default of defendant (names): Ruth A. Van Derostyne

   d. [ ] I request a court judgment under Code of Civil Procedure sections 585(b), 585(c), 989, etc., against defendant (names):

   (Testimony required. Apply to the clerk for a hearing date, unless the court will enter a judgment on an affidavit under Code Civ. Proc., § 585(d).)
   e. [ ] Enter clerk's judgment
      (1) [ ] for restitution of the premises only and issue a writ of execution on the judgment. Code of Civil Procedure section 1174(c) does not apply. (Code Civ. Proc., § 1169.)
         [ ] Include in the judgment all tenants, subtenants, named claimants, and other occupants of the premises. The *Prejudgment Claim of Right to Possession* was served in compliance with Code of Civil Procedure section 415.46.
      (2) [ ] under Code of Civil Procedure section 585(a). *(Complete the declaration under Code Civ. Proc., § 585.5 on the reverse (item 5).)*
      (3) [ ] for default previously entered on (date):

2. **Judgment to be entered.**

	Amount	Credits acknowledged	Balance
a. Demand of complaint	$	$	$
b. Statement of damages *			
(1) Special	$	$	$
(2) General	$	$	$
c. Interest	$	$	$
d. Costs *(see reverse)*	$	$	$
e. Attorney fees	$	$	$
f. TOTALS	$	$	$

   g. **Daily damages** were demanded in complaint at the rate of: $ per day beginning (date):
   (* *Personal injury or wrongful death actions; Code Civ. Proc., § 425.11.)*
3. [ ] *(Check if filed in an unlawful detainer case)* **Legal document assistant or unlawful detainer assistant** information is on the reverse *(complete item 4)*.

Date: July 16, 2009

Randy Sullivan
(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

FOR COURT USE ONLY
(1) [X] Default entered as requested on (date): JUL 17 2009
(2) [ ] Default NOT entered as requested (state reason):

Clerk, by: M. Salcido, Deputy

Form Adopted for Mandatory Use
Judicial Council of California
CIV-100 [Rev. January 1, 2007]

REQUEST FOR ENTRY OF DEFAULT
(Application to Enter Default)

Legal Solutions Plus

Code of Civil Procedure, §§ 585-587, 1169

CIV-100

PLAINTIFF/PETITIONER: JR Financial Lending, Inc.	CASE NUMBER: RG09 456196
DEFENDANT/RESPONDENT: Ruth A. Van Derostyne	

4. **Legal document assistant or unlawful detainer assistant (Bus. & Prof. Code, § 6400 et seq.).** A legal document assistant or unlawful detainer assistant [ ] did [X] did not for compensation give advice or assistance with this form. *(If declarant has received any help or advice for pay from a legal document assistant or unlawful detainer assistant, state):*

a. Assistant's name:
b Street address, city, and zip code:
c. Telephone no.:
d. County of registration:
e. Registration no.:
f. Expires on *(date):*

5. [ ] **Declaration under Code of Civil Procedure Section 585.5** *(required for entry of default under Code Civ. Proc., § 585(a)).* This action
   a. [ ] is [ ] is not on a contract or installment sale for goods or services subject to Civ. Code, § 1801 et seq. (Unruh Act).
   b. [ ] is [ ] is not on a conditional sales contract subject to Civ. Code, § 2981 et seq. (Rees-Levering Motor Vehicle Sales and Finance Act).
   c. [ ] is [ ] is not on an obligation for goods, services, loans, or extensions of credit subject to Code Civ. Proc., § 395(b).
6. **Declaration of mailing (Code Civ. Proc., § 587).** A copy of this *Request for Entry of Default* was
   a. [ ] **not mailed** to the following defendants, whose addresses are **unknown** to plaintiff or plaintiff's attorney *(names):*

   b. [X] **mailed** first-class, postage prepaid, in a sealed envelope addressed to each defendant's attorney of record or, if none, to each defendant's last known address as follows:
      (1) Mailed on *(date):* July 16, 2009
      (2) To *(specify names and addresses shown on the envelopes):*
      Ruth A. Van Derostyne
      47 Smithwood
      Milpitas CA

I declare under penalty of perjury under the laws of the State of California that the foregoing items 4, 5, and 6 are true and correct.
Date: 7-16-09

LORI MIKKELSON
(TYPE OR PRINT NAME)

Lori Mikkelson
(SIGNATURE OF DECLARANT)

7. **Memorandum of costs** *(required if money judgment requested).* Costs and disbursements are as follows (Code Civ. Proc., § 1033.5):
   a. Clerk's filing fees . . . . . . $
   b. Process server's fees . . . . . . $
   c. Other *(specify):* . . . . . . $
   d. . . . . . . $
   e. **TOTAL** . . . . . . $
   f. [ ] Costs and disbursements are waived.
   g. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

8. [ ] **Declaration of nonmilitary status** *(required for a judgment).* No defendant named in item 1c of the application is in the military service so as to be entitled to the benefits of the Servicemembers Civil Relief Act (50 U.S.C. App. § 501 et seq.).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)